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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,256	04/08/2004	Roger E. Bugh	2086001US2AP	7512
45069	7590	05/02/2006	EXAMINER	
FRED ZOLLINGER III P.O. BOX 2368 NORTH CANTON, OH 44720			HOWELL, DANIEL W	
			ART UNIT	PAPER NUMBER
			3722	
DATE MAILED: 05/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/820,256

Applicant(s)

BUGH, ROGER E.

Examiner

Daniel W. Howell

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3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,9,11,12,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 3-5,7,8,10 and 13-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

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1. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In order to provide antecedent basis for the clamps, claim 9 must depend from some other appropriate claim.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Aronson (2417539). Figures 10 and 11 show a flexible spine 10' and a plurality of bushings/templates 16 for guiding a tool for making a hole in a curved workpiece 11. Note that the templates are evenly spaced. The particular curved workpiece does not structurally limit the tool guide, and the device of Aronson is certainly capable of working on a rail.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aronson. While the device of Aronson is disclosed as being used to make holes on various parts of an aircraft, it is considered to have been obvious to have used the device to make holes on a different curved

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surface, such as a curved rail, as Aronson is specifically adapted to operate on such curved workpieces.

6. Claims 1, 2, 6, 11, 12, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beyl (4330228). As discussed at column 4, lines 9-18, the workpiece S is curved. Flexible spine 2 supports slides 6 and 7, which have templates 10 for making holes in the workpiece. Note the flexure in figures 2 and 9. Clamps 4 and 5 hold the workpiece. The particular curved workpiece does not structurally limit the tool guide, and the device of Beyl is certainly capable of working on a rail. The templates 10 are not evenly spaced. It is considered to have been obvious to have provided whatever spacing of the templates 10 as required by the particular workpiece. It is considered to have been obvious to have used the device to make holes on a different curved surface, such as a curved rail, as Beyl is specifically adapted to operate on such curved workpieces.

7. Claims 3-5, 7, 8, 10, 13-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning the content of this communication from the examiner should be directed to Daniel Howell, whose telephone number is 571-272-4478. The examiner's office hours are typically about 10 am until 6:30 pm, Monday through Friday. The examiner's supervisor, Boyer Ashley, may be reached at 571-272-4502.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at FAX number to 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing

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papers which require a fee by applicants who authorize charges to a USPTO deposit account.  
Please identify Examiner Daniel Howell of Art Unit 3722 at the top of your cover sheet.

A handwritten signature in black ink, appearing to read 'Howell', with a stylized, cursive script.

Daniel W. Howell  
Primary Examiner  
Art Unit 3722